

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

WAYNE VAN SCOY,	)	
	)	
Plaintiff,	)	
	)	C.A. No. 05-108-KAJ
v.	)	
	)	
VAN SCOY DIAMOND MINE OF	)	
DELAWARE, INC., a Delaware corporation,	)	
KURT VAN SCOY, and DONNA VAN SCOY,	)	
	)	
Defendants.	)	

**PLAINTIFF'S MOTION REQUESTING LEAVE TO FILE  
PLAINTIFF WAYNE VAN SCOY'S SUPPLEMENT TO HIS  
ANSWERING BRIEF IN OPPOSITION TO MOTION OF DEFENDANTS  
VAN SCOY DIAMOND MINE OF DELAWARE, INC., KURT VAN SCOY  
AND DONNA VAN SCOY FOR SUMMARY JUDGMENT**

Plaintiff respectfully requests that the Court grant leave to file the attached Plaintiff Wayne Van Scoy's Supplement to His Answering Brief in Opposition to Motion of Defendants Van Scoy Diamond Mine of Delaware, Inc., Kurt Van Scoy and Donna Van Scoy for Summary Judgment. The purpose of the supplement is to clarify and elaborate on the applicability of the Doctrine of Progressive Encroachment.

ASHBY & GEDDES

*/s/ John G. Day*

---

Steven J. Balick (I.D. #2114)  
John G. Day (I.D. #2403)  
222 Delaware Avenue, 17<sup>th</sup> Floor  
P.O. Box 1150  
Wilmington, DE 19801  
(302) 654-1888

*Attorneys for Wayne Van Scoy*

*Of Counsel:*

Michael F. Petock  
Michael C. Petock  
PETOCK & PETOCK, LLC  
46 The Commons at Valley Forge  
1220 Valley Forge Road  
P.O. Box 856  
Valley Forge, PA 19482-0856  
(610) 935-8600

Dated: March 7, 2006  
167303.1

**CERTIFICATION PURSUANT TO LOCAL RULE 7.1.1**

I hereby certify that counsel have discussed the attached motion, but an agreement could not be reached.

*/s/ John G. Day*

---

John G. Day

**CERTIFICATE OF SERVICE**

I hereby certify that on the 7<sup>th</sup> day of March, 2006, the attached **PLAINTIFF'S MOTION REQUESTING LEAVE TO FILE PLAINTIFF WAYNE VAN SCOY'S SUPPLEMENT TO HIS ANSWERING BRIEF IN OPPOSITION TO MOTION OF DEFENDANTS VAN SCOY DIAMOND MINE OF DELAWARE, INC., KURT VAN SCOY AND DONNA VAN SCOY FOR SUMMARY JUDGMENT** was served upon the below-named counsel of record at the address and in the manner indicated:

Sharon Oras Morgan, Esquire  
Fox Rothschild LLP  
Citizen Bank Center  
919 North Market Street  
Suite 1300  
Wilmington, DE 19801-2323

VIA ELECTRONIC MAIL

Charles N. Quinn, Esquire  
Fox Rothschild LLP  
2000 Market Street  
Tenth Floor  
Philadelphia, PA 19103

VIA ELECTRONIC MAIL

*/s/ John G. Day*

\_\_\_\_\_  
John G. Day